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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON
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9 ALMA and BENNY VILLARREAL,

10 husband and wife,

11 Plaintiffs,

12 vs.

13 INLAND EMPIRE ELECTRICAL

14 WORKERS HEALTH AND WELFARE

15 TRUST (“IEEW”); IEEW BOARD OF

16 TRUSTEES; AETNA INSURANCE

17 COMPANY; REHN AND ASSOCIATES;

18 DAVID KIMMET; KRISTEN KNOX; and

19 JOHN DOES NOS. 1-20,

20 Defendants.
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No. 1:16-cv-03114-SAB

**ORDER GRANTING IN PART
AND DENYING IN PART
MOTION TO DISMISS AND
GRANTING LEAVE TO FILE
FIRST AMENDED COMPLAINT**

22 On June 21, 2016, Defendants filed a Fed. R. Civ. P. 12(b)(6) Motion to
23 Dismiss for Failure to State a Claim, ECF No. 4. The motion to dismiss is based
24 on the argument that Plaintiffs’ claims for benefits under a health insurance plan
25 are preempted by federal law. Plaintiffs concede that the Employee Retirement
26 Income Security Act (“ERISA”), 28 U.S.C. § 1001 *et seq.*, preempts their claims,
27 as the plan in question is governed by ERISA and their claims derive from the
28 plan.

ORDER GRANTING IN PART AND DENYING IN PART . . . ^ 1

1 Plaintiffs are correct, however, that any dismissal is limited to preempted
2 state law claims, and that an ERISA claim may be set forth in a new complaint.
3 Therefore the Court **grants** the motion to dismiss only as far as preempted state
4 law claims are concerned. Plaintiffs are otherwise granted leave to file their
5 proposed amended complaint.

6 Accordingly, **IT IS HEREBY ORDERED:**

7 1. Defendants' Motion to Dismiss for Failure to State a Claim, ECF No. 4, is
8 **GRANTED IN PART AND DENIED IN PART.** Preempted state law claims are
9 **dismissed.** However, any appropriate ERISA claims, and their factual bases, may
10 be pleaded in an amended complaint.

11 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order
12 and forward copies to counsel.

13 **DATED** this 19th day of August, 2016.



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A handwritten signature in blue ink, reading "Stanley A. Bastian". The signature is written in a cursive, flowing style.

19 Stanley A. Bastian
20 United States District Judge
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